

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DEMARCUS KENARD JOE,
(TDCJ No. 1047716),

Plaintiff,

v.

GLENN HEGAR, et al.,

Defendants.

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Civil Action No. **3:20-CV-718-L**

ORDER

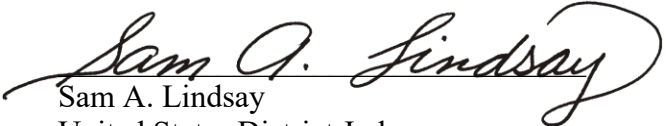
On March 27, 2020, United States Magistrate Judge David Horan entered the Findings, Conclusions, and Recommendation of the United States Magistrate Judge (“Report”), recommending that the action against Defendants Glenn Hegar, Ted Cruz, and Ken Paxton (“Defendants”) be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g) for Plaintiff DeMarcus Kenard Joe’s (“Plaintiff”) failure to pay the full filing fee of \$400. A *pro se* prisoner who is subject to the three-strikes bar is prohibited from proceeding *in forma pauperis*, “unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g). Magistrate Judge Horan determined that Plaintiff is subject to the three-strikes bar (*See* Report 3-4) and has set forth no allegations that he is under imminent danger of serious physical injury. Accordingly, Magistrate Judge Horan determined that Plaintiff must pay the full filing fee. Plaintiff has not filed any objections to the Report or paid the filing fee by the required deadline for filing objections.

Having reviewed the pleadings, file, record in this case, and the Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses without prejudice** this action pursuant to

pursuant to 28 U.S.C. § 1915(g), as Plaintiff is subject to the three-strikes bar and has failed to pay the full filing fee.

The court prospectively **certifies** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this certification, the court **incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the magistrate judge's Report, the court concludes that any appeal of this action would present no legal point of arguable merit and would therefore be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

It is so ordered this 21st day of April, 2020.


Sam A. Lindsay
United States District Judge